



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, DC 20231
www.uspto.gov

MAIL

Paper No. 9

MICHAEL J. POLLOCK
STALLMAN & POLLOCK LLP
121 SPEAR STREET SUITE 290
SAN FRANCISCO, CA 94105

AUG - 4 2003

DIRECTOR OFFICE
TECHNOLOGY CENTER 2600

In re Application of:

Ronald W. Page

Application No. 09/129,255

Filed: August 4, 1998

For: HIGH SPEED VIDEO MIXER CIRCUIT

:
:
:
:
:
:
DECISION
ON PETITION

This is a decision on the supplemental petition to withdraw the holding of abandonment filed May 5, 2003. No fee is required.

The application is abandoned for failure to timely file a proper reply to the non-final Office action mailed April 11, 2002. No Notice of Abandonment was mailed.

Petitioner alleges that the non-final Office action was not received.

Based on M.P.E.P. § 711.03(c) [*See also Notice entitled Withdrawing the Holding of Abandonment When Office Actions Are Not received, 1156 O.G. 53 (November 16, 1993)*], in absence of any irregularity in the mailing of an Office action, there is a strong presumption that the Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include:

(a) a statement from the practitioner stating that the Office communication was not received by the practitioner;

(b) a statement attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received; and

(c) a copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

The showing outlined above may not be sufficient if there are circumstances that point to a conclusion that the Office communication may have been lost after receipt rather than a conclusion that the Office communication was lost in the mail.

A review of the record indicates that the non-final Office action was properly mailed to the practitioner of record at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Notice of Allowance on the part of the Patent and Trademark Office.

Petitioner has not meet requirement (a) above. On page three of the supplemental petition, Petitioner indicates that communications from the Patent Office were forwarded from the address effected in the Power of Attorney filed July 24, 2000, since approximately March 1, 2001. This address effected by the Power of Attorney was

Limbach & Limbach LLP
ATTN: Michael J. Pollock
2001 Ferry Building
San Francisco, CA 94111

The supplemental petition establishes that the Limbach address was incorrect on the date the non-final Office action was mailed on April 11, 2002, and that mail was forwarded to the present mailing address

from the Limbach address during the same time. While Applicant was aware of this, a Change of Address was not submitted until after the non-final Office action was mailed.

Accordingly, the petition is **DENIED**.

Petitioner may consider filing a petition to revive an abandoned application under 37 CFR § 1.137(b).

The application file is being forwarded to the files repository.



Allen R. MacDonald, Director
Technology Center 2600
Communications